

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION

DAVID DAVIS,

Plaintiff,

VS.

PHENIX CITY, ALABAMA, et al.

Defendants.

CIVIL ACTION NO. 3:06-cv-00544-VPM

Judge Vanzetta Penn McPherson

ATTACHMENT D

### COUNSELING FORM

Employee Name David Davis Date 10/25/04  
Date of Hire 4/27/1998 SS# 256-19-1294  
Department Fire Division \_\_\_\_\_

A counseling session was conducted and issued to the above named employee this date for the following violation(s) of the Merit System Rules and Regulations:

Group I Offense Line # 13 which States:

Violating a safety rule or safety  
practice

### DETAILS OF MERIT SYSTEM VIOLATION(S)

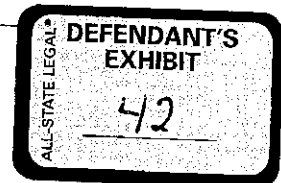
Document detailed description of violation including date, time and nature of each occurrence:

10/25/04 @ 1034 AM, 1109 11th Street (Structure fire)  
Failure to remove civilians away from area  
considered the hot zone. Civilians were  
not in danger of fire, but were in the  
area where fire department personnel  
were using or operating equipment  
that could have caused harm to civilians.  
An all clear had not been given allowing civilians  
or fire department personnel to enter area considered  
the hot zone. No PPE in hot zone. (pmts)

Action Taken:

Counseling

Employee's reaction or comments to counseling session: \_\_\_\_\_



Additional Comments:

Counseling session lasted  
for several hours. Employee has a better  
understanding of the need to remove  
all non-essential people from the  
hot-zone. Employee also has  
a better understanding of the  
department personnel not entering  
the hot-zone unless an all clear  
is given

A counseling session and violation(s) has been discussed with me and I understand this  
notice will become part of my personnel file.

Employee Signature

Date

10/25/2004

Supervisor Signature

Date

10/25/04

# Memorandum

To: Chief Prater, Deputy Chief Hunter

From: Assistant Chief K. Johansen

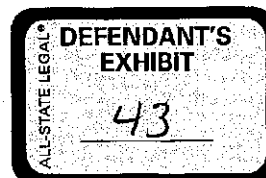
Date: 10/26/2004

Re: Safety violations

## Consensus of Incident: CPT Hamby, Sgt. Johnson and Sgt. D. Davis

On October 25, 2004 at 1034 Hours, Stations One and Three were dispatched to a structure fire at 1109 11<sup>th</sup> Street. Sgt. Johnson arrived on the scene in Q3 and gave a size-up. Sgt. Johnson donned proper PPE and went to the structure. Light smoke was coming from the doorway. Resident stated that the fire was out. Sgt. Johnson checked in the structure. Civilian people were at the corner of the structure, only away from the apartment in questioned if on fire. Sgt. Johnson was exiting the hot zone and CPT Hamby was entering it with his crew. Civilians were allowed to congregate back in front of the apartment that had the fire. Crewmembers were bringing equipment past civilians while in the hot zone. CPT Hamby stated that he was in the structure and was unaware that people had re-congregated near the apartment, until he exited it. CPT Hamby called IC and stated that fire was out. Some time after this announcement Sgt. D. Davis went to get some information from the residents. Sgt. Johnson and myself saw Sgt. D. Davis leaving the hot zone with the clipboard. He was walking with two fire fighters. I started talking back to Sgt. Johnson. Sgt. D. Davis then approached Brush 4 and asked for the thermal Image Camera. He walked back between Q3 and E1 where the fire fighters were standing. I went back to talking to Sgt. Johnson. I then noticed Sgt. D. Davis walking back to the structure with the imager and with a fire fighter. I then thought that I might have not heard the all clear. I called and asked CPT Hamby if all was clear. Sgt. D. Davis stated while he was up at the structure CPT Hamby stated that he needed a flashlight. Sgt. Davis stated to him that FF Averett had one. CPT Hamby then stated that he needed the thermal image camera and a pike pole. Sgt. Davis went and retrieved the thermal image camera that was requested by CPT Hamby. Sgt. Davis was following the request of the Captain. All three supervisors violated a safety rule. Letting all non-essential personnel or civilians in the area considered the hot zone. Sgt Davis had entered the hot zone some time after the fire was announced that it was out, but not all clear. Caption Hamby stated that fire was out, but he forgot to announced all clear until I had asked about it being all clear. Sgt. Davis stated that on the other two shifts that after the announcement of fires out, he was able to pursue getting information for the report. He stated that he was not accustomed to the all clear. The communication had broken down to command

Summary: ~~Sgt. Johnson was the first to enter and initiated Incident Command.~~ He was the first fire department supervisor on the scene that entered the hot zone and could see the civilians and failed to remove them at least 50 feet radius from the structure. ~~The second supervisor that arrived on the scene was Captain Hamby~~ who also entered the hot zone and failed to remove the civilians. The ~~third supervisor was Sgt. Davis~~ who entered the hot zone without proper PPE and failed to remove civilians from the hot zone. From my viewpoint I could see only the end of the one apartment building. When the all clear was given, I approached the structure and noticed around a dozen



November 15, 2004

civilians standing all around the doorway and on the sidewalk across from the structure. Sgt. Davis was the initial personnel that was in violation of entering the hot zone without proper PPE. After investigating the incident other circumstances were involved.

After several hours of counseling all three supervisors about how important it is to treat all incidents in the initial stages as a serious threat. It was also made clear that the IC was the only individual that would make any deviation. They were also advised that there would be no free-lancing. Sgt. Johnson and stated that it was a learning experience and very beneficial. They were advised to go by the SOP's.

**PHENIX CITY FIRE RESCUE**